

S. LANE TUCKER
United States Attorney

SETH M. BEAUSANG
SIOBHAN MCINTYRE
Assistant U.S. Attorneys
U.S. Attorney's Office, District of Alaska
Federal Building & U.S. Courthouse
222 West Seventh Avenue, #9, Rm. 253
Anchorage, Alaska 99513-7567
Phone: (907) 271-5071
Fax: (907) 271-2344
Email: Seth.Beausang@usdoj.gov
Email: Siobhan.McIntyre@usdoj.gov

Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

KLOOSTERBOER INTERNATIONAL)
FORWARDING LLC and ALASKA)
REEFER MANAGEMENT LLC,)

Plaintiffs,)

vs.) Case No. 3:21-cv-00198 SLG

UNITED STATES OF AMERICA, U.S.)
DEPARTMENT OF HOMELAND)
SECURITY, U.S. CUSTOMS AND)
BORDER PROTECTION, and TROY A.)
MILLER, U.S. Customs and Border)
Protection Acting Commissioner, in his)
official capacity,)

Defendants.)

MOTION FOR EXPEDITED CONSIDERATION OF THE UNITED STATES' MOTION TO DISSOLVE THE COURT'S INJUNCTION AS TO PLAINTIFFS' ONGOING USE OF THE BCR ROUTE

COMES NOW, the United States of America, by and through undersigned counsel, to move pursuant to District of Alaska Local Rule 7.3 for expedited consideration of the United States' Motion to Dissolve the Court's Injunction as to Plaintiffs' Ongoing Use of the BCR Route for the following reasons:

1. Since October 10, 2021, Defendants have been enjoined “from ever issuing and enforcing any new Notices of Penalty for alleged violations of the Jones Act relating to shipments from Alaska to U.S. destinations through Bayside via the BCR Route commenced or completed at any time from the date of this order until the date of the final judgment in this action, and regardless of the outcome of the action.” [Dkt. 95 at 23]

2. The Court has now ruled that Plaintiffs' use of the BCR Route does not comply with the Third Proviso because no “transportation” occurs over the BCR. [Dkt. 154 at 20]

3. Except for the Court's injunction, there is no legal impediment to the United States enforcing the Jones Act as to Plaintiffs' ongoing use of the BCR Route.

4. Every day the Court's injunction remains in place the United States is irreparably harmed by its inability to enforce the law. The United States' Motion to Dissolve therefore deserves the Court's urgent attention.

5. The Declaration of AUSA Seth M. Beausang in support of this Motion for Expedited Consideration is filed concurrently with this motion.

6. For all of these reasons, the Court should grant the Defendant's Motion for Expedited Consideration.

RESPECTFULLY SUBMITTED this 7th day of June 2022, in
Anchorage, Alaska.

S. LANE TUCKER
United States Attorney

s/ Seth M. Beausang
Assistant U.S. Attorney
United States of America

s/ Siobhan A. McIntyre
Assistant U.S. Attorney
United States of America

CERTIFICATE OF SERVICE

I hereby certify that on June 7, 2022,
a copy of the foregoing was served electronically on:

David Karl Gross, ABA #9611065
Edward E. McNally, ABA #9203003
Marc E. Kasowitz (*Pro Hac Vice*)
David J. Abrams (*Pro Hac Vice*)
David E. Ross (*Pro Hac Vice*)
Hector Torres (*Pro Hac Vice*)
Kim Conroy (*Pro Hac Vice*)
Attorneys for Plaintiffs

s/ Seth M. Beausang
Assistant U.S. Attorney